

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

UNITED STATES

V.

TIMOTHY MUIR,
DEFENDANT-MOVANT

Application GRANTED IN PART AND DENIED
in part. Defendant Muir may file a supporting
brief within 21 days of this Order.

SO ORDERED.

Dated: 10/13/2022



P. Kevin Castel
United States District Judge

VERIFIED MOTION FOR EXTENSION
OF TIME TO FILE BRIEF IN SUPPORT FOR
MOTION TO VACATE UNDER 28 U.S.C. 2255

COMES NOW DEFENDANT-MOVANT TIMOTHY MUIR, PRO SE,
AND RESPECTFULLY MOVES THIS COURT FOR AN EXTENSION OF
UP TO NINETY (90) DAYS TO SUBMIT A BRIEF IN SUPPORT OF
HIS MOTION TO VACATE UNDER 28 U.S.C. 2255. IN SUPPORT
HEREOF, MUIR STATES AS FOLLOWS:

GROUND FOR THE MOTION

ON OCTOBER 4, 2021, THE UNITED STATES SUPREME
COURT DENIED MUIR'S PETITION FOR CERTIORARI SEEKING
REVIEW OF THE SECOND CIRCUIT'S AFFIRMANCE OF THIS
COURT'S JUDGMENT OF CONVICTION. PURSUANT TO 28
U.S.C. 2244(d)(1)(A), THE DEADLINE TO TIMELY FILE MY
2255 MOTION IS TODAY, OCTOBER 4, 2022. CONTEMPORANEOUSLY
SUBMITTED HERewith, MUIR HAS FILED A MOTION TO VACATE
UNDER 2255, SETTING FORTH FOUR GROUNDS FOR RELIEF.

IN THIS CIRCUIT, A DISTRICT COURT MAY GRANT AN EXTENSION IF THE MOVANT "REQUESTS THE EXTENSION UPON OR AFTER FILING AN ACTUAL SECTION 2255 MOTION."

GREEN V. UNITED STATES, 260 F.3d 78, 82-83 (2d Cir. 2001).

MUIR'S CONTEMPORANEOUSLY FILED 2255 MOTION WITH SUMMARY FACTUAL SUPPORT SATISFIES GREEN'S REQUIREMENT. MUIR IS REQUESTING ADDITIONAL TIME TO COMPLETE HIS BRIEF IN SUPPORT BECAUSE HIS CURRENT CONDITIONS OF INCARCERATION HAVE MADE IT ALL BUT IMPOSSIBLE TO DO SO.

MUIR IS CURRENTLY INCARCERATED AT FCI BECKLEY, AND HAS BEEN SINCE OCTOBER 4, 2021. DURING THE ENTIRETY OF THE LAST YEAR, FCI BECKLEY'S OPERATIONS AND MOVEMENTS HAVE BEEN SEVERELY LIMITED BECAUSE OF COVID-19 RESTRICTIONS, SUCH THAT I CAN ONLY ACCESS THE LIBRARY TO WORK ON MY CASE ON THE 2-3 TIMES A WEEK ~~MY~~ MY UNIT HAS NIGHT OR SUNDAY MORNING RECREATION. TO MAKE MATTERS WORSE, FCI BECKLEY HAS BEEN CONSISTENTLY LOCKED DOWN OVER THE PAST YEAR FOR SIGNIFICANT VIOLENT INCIDENTS, INCLUDING STABBINGS, ATTACKS ON STAFF, AS WELL AS A RECENT HOMICIDE. WORSE STILL, SINCE APRIL 2022, FCI BECKLEY HAS BEEN CONSISTENTLY LOCKED-DOWN - MANY LASTING WEEKS AT A TIME - BECAUSE THE SHU IS CONSTANTLY FULL. DESPITE MY DILIGENT EFFORTS, THE INCESSANT LOCK-DOWNS HAVE PREVENTED ME FROM COMPLETING A BRIEF IN

SUPPORT OF MY MOTION TO VACATE UNDER 28 U.S.C. 2255.

RELIEF REQUESTED

MUIR RESPECTFULLY REQUESTS AN EXTENSION OF UP TO NINETY (90) DAYS TO SUBMIT HIS BRIEF IN SUPPORT OF HIS MOTION TO VACATE UNDER 28 U.S.C. 2255. IF MUIR COMPLETES HIS BRIEF PRIOR TO THE EXPIRATION OF THE TIME THE COURT GRANTS, HE WILL IMMEDIATELY FILE IT AND NOT WAIT THE FULL PERIOD OF TIME TO FILE IT. BY MUIR'S CALCULATION, HIS BRIEF IN SUPPORT WOULD BE DUE ON OR BEFORE JANUARY 2, 2023.

CONCLUSION

FOR THE FOREGOING REASONS, MUIR RESPECTFULLY REQUESTS THIS COURT GRANT HIM AN ADDITIONAL NINETY (90) DAYS TO FILE HIS BRIEF IN SUPPORT OF HIS MOTION TO VACATE UNDER 28 U.S.C. 2255, AND FOR SUCH FURTHER RELIEF AS THE COURT DEEMS JUST AND PROPER UNDER THE CIRCUMSTANCES.

RESPECTFULLY SUBMITTED

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TIMOTHY MUIR, PRO SE
REG. NO. 27904-031
FCI BECKLEY
P.O. BOX 350
BEAVER WVA 25813

DECLARATION

I DECLARE UNDER PENALTY OF PERJURY THAT THE
FOREGOING IS TRUE AND CORRECT AND THAT THIS MOTION
WAS PLACED IN THE PRISON MAILING SYSTEM ON
OCTOBER 4, 2022.

EXECUTED ON OCTOBER 4, 2022.

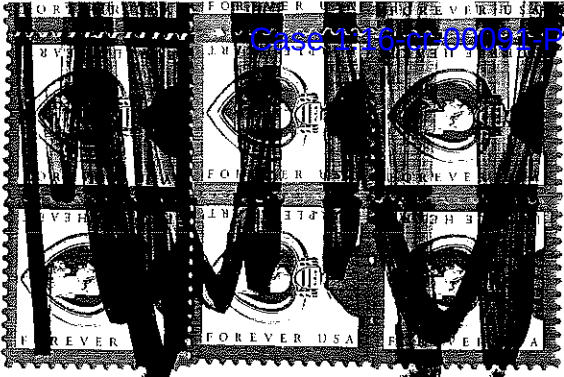
T =
TIMOTHY MUIR

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DEFERRED MAIL



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Crim Dkt
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PRO SE INMATE FILING

